



Domestic
Petroleum
Council



US Oil & Gas
Association



February 28, 2006

Department of the Interior
Minerals Management Service
381 Elden Street
Mail Stop 4024
Herndon, VA 20170-4817

ATTN: Rules Processing Team (Comments)

RE: Alternate Energy-Related Uses on the Outer Continental Shelf – 1010-AD30 (70 Fed. Reg. 77345, December 30, 2005).

Dear Sir or Madam:

As representatives of the Nation's energy industry, the National Ocean Industries Association, the Domestic Petroleum Council, and the U.S. Oil & Gas Association appreciate the opportunity to respond to your request for comments on the advance notice of proposed rulemaking. Our three trade associations represent hundreds of companies engaged in the U.S. energy industry, including alternate energy companies, and all facets of the oil and natural gas industry, from drilling to producing, engineering to marine and air transport, offshore construction to equipment installation, manufacture and supply, and geophysical surveying to diving and remotely operated vehicle operations. Either directly or indirectly, we are all working to explore for and produce energy resources from the nation's Outer Continental Shelf (OCS) in an environmentally sensitive manner. The proposed regulation, therefore, is of particular importance to us.

The notice seeks comments on a program for OCS energy development from sources other than oil and gas and alternate uses of existing facilities, pursuant to section 388 of the National Energy Policy Act of 2005. Alternate ocean energy technologies include wave energy converters which extract the power of ocean waves and convert it to electricity, tidal and current systems that capture the energy of ocean currents and tides below the wave surface and convert them to electricity, solar energy, ocean thermal energy technology that generate electricity through the temperature differential in warmer surface water and colder deep water, offshore wind turbines that capture wind and convert it to electricity, and marine biomass that harvests marine algae for the use in energy generation by producing gaseous or liquid fuel. Other alternate uses of existing facilities include using the structures for marine aquaculture, research, education, recreation, support for offshore operations and facilities, and telecommunications facilities.

We support the development of a program to authorize and regulate these uses of the OCS, and recommend that the agency establish a streamlined process to authorize and regulate alternate uses of facilities and alternate energy development while not infringing upon existing oil and gas exploration and production activities.

The notice addresses five program areas. These include: access to OCS lands and resources; environmental information, management, and compliance; operational activities, payments and revenues; and coordination and consultation.

Access to OCS Lands and Resources

We recommend that the MMS adopt a system of multi-year rights-of-way for commercial alternative energy projects. The Ocean Renewable Energy Coalition has recommended that rights-of-way be granted for three year terms after requests for proposals are issued, and be confined to strategic development regions which have an adequate energy density, appropriate water depth, and sufficient proximity to a coastal load center with growing energy demand and a robust onshore utility grid. We endorse these recommendations, with one addition. In analyzing the strategic development regions, we urge the MMS to consider oil and natural gas potential and existing activities, and to ensure that alternate energy projects are not solicited in areas where there would be conflicts with traditional energy projects. Furthermore, we recommend that rights-of-way terms be extended as long as the facility is producing energy, and that the MMS set up a system of fees and royalties for the rights-of-ways issued.

We also recommend that the agency set up a separate program for demonstration projects that would be used for technologies that are emerging from industry and academic laboratories and are ready for ocean testing but are not yet commercial. The MMS could authorize these projects through short-term easements. We recommend that easements be issued after the MMS approves the plan of the applicant, ensures that the applicant obtains all required permits, provides a financial guarantee for decommissioning and restoration of the site, and ensures that the easement would not conflict with existing or potential traditional energy projects. Since these easements would be short-term in duration and for the purpose of gathering information and data, we recommend that they not be extended beyond their initial term without a new easement grant, and that they be subject only to fees that cover the cost of granting the easement and regulating it, but not to additional royalties and other fees.

Environmental Information, Management and Compliance

The MMS has a strong environmental information, management and compliance system in place that is used to support the regulation and permitting of offshore oil and natural gas activities. Our trade associations recommend that the agency use similar procedures, strategies and documentation in its regulation of alternate energy uses of the OCS.

Operational Activities

As mentioned above, we recommend that pilot or demonstration projects be authorized through easements, and that MMS have a specified time frame to respond to applications. We recommend easements for pilot or demonstration projects be limited to not more than five year terms. The easement application should include information about the technology to be deployed (including studies and peer review information by research institutions or other agencies), the location, the environment, and the plan for the project.

We recommend that commercial projects be authorized through requests for proposals, and granted through rights-of-way with three year terms, to be extended by a demonstration of production. As with easement applications, the MMS should have a specified time frame to respond to the application, and proposals should include information about the technology to be deployed, the location, the environment, and a plan for the project.

We recommend that the MMS provide the public with notice and opportunity to comment on applications and proposals. In addition, we recommend that the agency provide direct notice to holders of existing facilities, leases, permits, rights-of-ways, and other authorizations, when those facilities and authorizations are in the same areas or adjacent to the areas requested in applications or proposals. We further recommend this same notice be provided to holders of non-exclusive geophysical data.

The notice requests information on end of life and facility removal. We recommend that the agency's regulations regarding oil and gas activities be amended to allow existing energy facilities to be converted to alternative energy or alternative use facilities, rather than requiring that the facilities be decommissioned within one year of the end production. This would be more in keeping with the spirit of section 388 of the Energy Policy Act of 2005.

Payments and Revenues

We recommend that fees for rights-of-ways and easements for offshore alternate energy projects be limited to the cost to the agency to process the applications and proposals. We further recommend that the agency set up a royalty payment structure based on revenues, with exemptions during a project's first five years, to allow companies to begin to repay their investments and reach optimal efficiencies. We believe this will assist in stimulating the development of, and investment in, new energy resources.

Coordination and Consultation

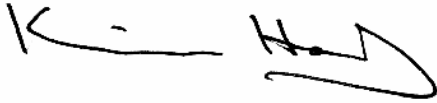
The Ocean Renewable Energy Coalition recommends that MMS consider establishing a Joint Ocean Renewables Office, co-locating representatives from each of the agencies responsible for

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permitting and authorizing portions of the alternative ocean energy projects. This will allow the agencies to work together, eliminate duplication of work, simplify the government process, and act in a more customer-oriented manner. We believe such an office, with MMS in the lead, would be helpful to applicants, and endorse the recommendation.

Thank you again for considering our comments on the advance notice. If you have any questions or need additional information, please feel free to contact Kim Harb at (202)347-6900.

Sincerely,



Kim Harb
National Ocean Industries Association



William Whitsitt
Domestic Petroleum Council



Alby Modiano
US Oil & Gas Association